



Volume 25 | Issue 3

Article 14

April 1918

Handbook on Criminal Procedure

L. C.

West Virginia University College of Law

Follow this and additional works at: <https://researchrepository.wvu.edu/wvlr>



Part of the [Criminal Procedure Commons](#)

Recommended Citation

L. C., *Handbook on Criminal Procedure*, 25 W. Va. L. Rev. (1918).

Available at: <https://researchrepository.wvu.edu/wvlr/vol25/iss3/14>

This Book Review is brought to you for free and open access by the WVU College of Law at The Research Repository @ WVU. It has been accepted for inclusion in West Virginia Law Review by an authorized editor of The Research Repository @ WVU. For more information, please contact ian.harmon@mail.wvu.edu.

Lawyers in Criminal Cases; VIII. The Ethical Duties of Lawyers in Civil Cases; IX. Pecuniary Relations of Lawyers and Clients; X. Miscellaneous Topics. The subdividing of these topics is logical and acceptable. As Appendix appropriately contains Hoffman's Fifty Resolutions, the American Bar Association Canons, and the Oath of Admission. It may seem that different materials might have been used as to some phases; but, upon mature reflection it is to be doubted whether after all this would have meant improvement.

It means much to the profession, and through the profession to the community, that the teaching of legal ethics has come to stay in the law schools. The school that does not give it in course deserves not the name. To some of us this statement is not too strong. The book under notice admirably fits in this line. It will largely be adopted. It comes near a time when needed. The close of the Civil War sent many a returned soldier, both in the North and in the South, to legal studies. Honored for valorous duty to country, he was thereby inspired to look to the most honorable of professions—that in which he would continue to stand for principle, for right, for government. The close of the awful conflict now pending will bring the same, in larger degree. Let the law school sought by the returned American soldier immediately disclose to him not only the nobility of the profession he has chosen, but also its amenities and its exactions.

This note is intended merely to be a pointer to a good work, not a formal review of the same. "The proof of the pudding is the eating," not the reading of the recipe. The object of this writing is to impel the reader himself actually to review the work.

—I. E. R.

HANDBOOK OF CRIMINAL PROCEDURE. By Wm. L. Clark, Jr. Second Edition by William E. Mikell. St. Paul: West Publishing Company. 1918. (Hornbook series.) pp. xi, 748.

The chapters and general topics of the second edition are identical with those of the first edition. The revisor has directed his efforts principally toward an expansion of the footnotes and citations of the first edition. The one hundred and nine extra pages of text and footnotes in the second edition, while partly due to a more liberal page margin, are chiefly the result of an extensive amplification of the footnotes and citations. The revisor, in his Preface, speaks of the "great stream of decisions" which "has

gone under the legal bridge" since the publication of the first edition as constituting the primary demand for a revision. But, while giving attention to the later decisions in particular, he has by no means hesitated to enter into an examination of a great number of very pertinent authorities contemporary with those already cited in the first edition. In other words, he has very ably performed the double task of supplementing and verifying. The additional cases, both early and late, are selected and dealt with, not for the purpose of merely corroborating the original text, but with the object of elaborating and adding salient points to the discussion. Hence, in dealing with the footnotes, the revisor has not confined himself to mere citation, but supplements the text, which has been changed in only a few instances, with a concise, well-balanced discussion in the footnotes. Such a method has the advantage of giving the essential trend of the more recent decisions without breaking the continuity or style of the original text. An admirable feature of the second edition, which constitutes a distinct improvement over the first edition, is the fact that the revisor seems to have undertaken, in every instance of cases cited, to refer to every possible source wherein the case has been reported; while the first edition generally was content to stop with reference to the state, or other local reports and the Reporter System.

Particularly, does the revisor evince a disposition to champion "a more rational system of procedural law," entertaining very little sympathy for the "super-technicalities once dominating criminal procedure." In this spirit, he has washed his hands (pp. 180, 251) of the old artificial degrees of certainty, which have been no little provocation to the common-law pleader, and which no man ever has been able to define. The same progressive spirit is displayed (p. 186, note 24, p. 253, note 75) in contrasting the arbitrary and absurd technicalities persistently clinging to the question of pleading legal conclusions and to the question of variances between the *allegata et probata* with the even dangerous liberality allowed as to pleading time—other matters which taint the logic of common-law pleading.

It has already been suggested that very few changes—and these, mostly formal, with the object of clarifying the style in the few instances where improvement is possible—have been made in the text proper of the first edition. The black-letter text has been left almost intact. These facts suggest two observations: First, how

slowly the general principles of the law change, even in a field wherein progress, goaded on by an insistent public sentiment, is striking at technicality; and second, the precision and general excellence of the first edition of the work under consideration. The first edition left little to be desired in a book of its intended scope as a summary of the law. The second edition, as an original effort and outside of the well-performed task of merely bringing the publication down to date, is still better.

—L.C.

WEST VIRGINIA BAR ASSOCIATION NOTES:
NEWS OF THE PROFESSION*

ANNUAL ADDRESS BY SECRETARY BAKER.—At the meeting of the Executive Council held in Charleston February 5, 1918, an invitation was extended to Hon. Newton D. Baker, Secretary of War, to deliver the annual address at the annual meeting to be held at Elkins, Randolph County, July 16 and 17, 1918. Secretary Baker accepted the invitation before his departure for France.

Secretary Baker is a native of this State, having been born at Martinsburg, Berkeley County, December 3, 1871. He graduated from Johns Hopkins University in 1892 and from Washington and Lee University Law School in 1894. He was private secretary to Postmaster General Wilson from 1896 to 1897, and in the latter year entered the practice of law at Martinsburg. In 1902 Mr. Baker was appointed assistant city solicitor of Cleveland, Ohio, and a year later, director of law. He served as city solicitor of Cleveland from 1903 to 1912, and was mayor for the terms 1912-14 and 1914-16. Mr. Baker was appointed Secretary of War to succeed Secretary Garrison and took the oath of office March 9, 1916.

The visit of this former West Virginian to his native state for the purpose of delivering a message to the members of his profession in these times of stress will doubtless afford mutual interest, pleasure and profit. It is predicted that the attendance at the Elkins meeting will be the largest at any annual meeting in many years.

DATE OF THE NEXT ANNUAL MEETING.—Tuesday and Wednesday, July 16 and 17, 1918, have been selected as the dates for the

*Edited by J. R. W. Morris, Jr., Secretary, The West Virginia Bar Association.